

THE
C A S E
OF THE
B A N K E R S
And their
C R E D I T O R S.

Stated and Examined;

By the Rules of Lawes, Policy, and common Reason, as it was inclosed in a Letter to a Friend.

*By a true Lover of his King and Country, and a Sufferer
for Loyalty.*

Ad Reges potestas omnium pertinet, ad singulos proprietas, Seneca de Beneficijs, Lib. 7. Cap. 4. & 5.

Rex ad tutelam Legis, Corporum, & Bonorum creatus est. Lord Chancellor Fortescue, cap. 13. 7. Rep. Calvin's Case, 5. a

Cōcilia callida & audacia, prima fronte lata, tractatu dura, eventu tristia. Erasmus in Epistolis.

That State is in ill condition, where the justly accused shall take Revenge of the just Accuser, and where he that would save his Prince must ruine himself. Sir Walter Rawleigh's Prerogative of Parliament.

Printed in the Year, 1674.

E

S

A

C



la
jon
wr
eat
Te
si
rat
fel
wi
ci
mi
ble
hor
By
W
no
ry
un
re
ho
St
se



Dear Sir,



N Obedience to your Command, I have committed to Paper some Notions I had conceived of the Bankers business, and the calamitous dependants thereon. I remember you thought me (though concern'd enough) pretty warm in this Argument last time I discourst it with you; and truly if hard usages will make a wise man mad, the Effect it hath upon a Fool (as I am) may well want a

name. I have I praise God weather'd out all those dreadful storms which fell some years since upon the Loyal party, (as you know) though with the Shipwrack of my person and Estate, and thus (if I may speak it without Ostentation) I did with constancy and joy, for though I could see then nothing but Tempests and Hurricanes without me, yet my mind was alwayes re, resht with serenities and calmness, triumphing that I was thought worthy at any rate, to suffer for so glorious a cause. After his Majesties Happy Restoration, though neglected and despised, as many of far greater merit than myself likewise were, we did all however possess our souls with patience (though wise men tell us that it was never accounted the best policy to dismiss well-servers in point of recompence with the satisfaction only of their Consciences, and the rewards of the next world). And now when we and our miserable Families had thought to have protracted (at least) a contemptible life with those poor remainders, and broken pieces of our For unes, behold in one moment those also are ravish'd from some of us by our friends. By what name sh^d I express this treatment? Shall I call it a violation of the Widdowes Mite? or a breaking in'o the Alms-basket? no these reach it not, all nature cannot furnish me with a similitude.

Sir mistake me not, I would not be thought here to lay so great a calamity at the door of my dread Sovereign (a Prince in his own free nature, and unsocial inclination not to be paralled for all Royal Graces) no Sir the Law reaches me to conceive more Honourably of the King's Justice (by which his Throne is Establish'd) and tells me that whatsoever wrong is done to the Subject, is effected by misinformations of his Majesty, and pernicious Counsells.

Plin. in Panegy. ad Trajanum imperat. Lib. 4. Cap. 11. Rulphs Prelog. of Parliament in fine.

Pro. 16. 32.

*Bracton lib.
cap. 9.*

*Cook d. 11.
Rep. 72. a
Magdalen col
case.*

*1 Hen. 7. 4. b.
per Hussy ch.
Justice d' An
gliter.*

Nihil aliud potest Rex in texris (saith Bracton) cum sit Dei minister & vicarius nisi id solum quod de jure potest. The King can do nothing seeing he is God's Vicegerent, but that which he may lawfully do. Rex hoc solum non potest facere, quod non potest injuste agere (say the Judges in another Case) This one thing only the King cannot do, that he cannot do injustice (which yet is so far from impotency or imperfection, that it is a Character also of the Divinity). And therefore Markham Chief Justice of England told King Edward the 4th. that he could not Arrest any man for a misdemeanour (as a Subject mought) because if the King did wrong, the party could not have his Action against him; we receive Life and Vigour from the influences of Heaven, but Distempers proceed from the Vapours of the Earth, which vapours yet can convey no infection into those Celestial bodies: Even so sometimes the countenance of Princes may concur in the Execution of illegal advices, without sharing in the Obliquity and injustice of them.

The Poets have a witty Fable of Tiresias, the great Soothsayer, that he foretold future events by the flying of birds, not that he did see the birds (for he was blind) but (say they) he had alwaies his Daughter Manto near at hand, who inform'd him of the manner of their flights, and according to her advertisements, the Father evermore divined: The Mythology or Moral of this Fable is oftentimes applicable to the best and most virtuous Princes, they hear with other mens Ears, they see sometimes thorough the spectacles of other mens eyes, and according to the colour of the glass, so is the object represented to them; black or red, or perhaps white, whereas the true tincture of the thing may be clearly otherwise; and yet all this while the fault is not in the eye, but in the deceptive glass. If a false Light-house be erected near a dangerous Rock in the Sea, and in a dark and tempestuous night the Ship is steered that way, as to a safe Port, and thereupon suffereth wrack, no body can with any reason impute this misfortune to the error or incogitancy of the Pilot, or governour of the Vessel, but rather to the malice and falsity of this wicked invention. Upon this ground it is that Seneca (a wise man, Tutor to an Emperor, and one that well understood what he wrote) breaks forth into that passionate interrogation, Quid omnia possidentibus deest? ille qui verum dicat. What thing only do they want which possess all things? Even (answers he) a person that will give them honest Advertisements. And therefore the Lord Chancellor, Bacon (among many other his excellent Counsels to the late Duke of Buckingham) urgeth this following document to him with a warmer zeal then ordinary. In respect of the King your Master (saith he) you must be very wary that you give him true information, and if the matter concern him in his government, that you do not flatter him; if you do, you are as great a Traytor to him, in the Court of Heaven, as he that drawes his Sword against him.

*Seneca de Be-
nificio lib. 3.
cap. 30.*

*Cabala of Let.
1273 fol. 41.*

This

This grievance of ours hath been represented to his Majesty under the pretence and umbrages of Royal Prerogative (which in truth he is obliged to maintain) and of publique Emolument and advantage (which certainly are the most glorious Objects of Royal prudence). With these and the like Blandishments Sir this Chrystal Fountain of Justice hath been poison'd and contaminated. This is the Coloquintida with which so unspeakable a sweetness hath been imbittered, these are the Paintings with which so deformed an Advice hath been sophisticated. But let me tell you Sir, if in the sequel of this discourse I shall not clearly wipe off all these Varnishes and false colours, and effectivly prove this advice to be as mischievous to his Sacred Majesty as his people, I shall think I have very meanly acquitted my self in this business.

I hope I shall not be thought to reflect herein, upon any person whatsoever, any farther then his own Conscience may scourge him in this particular. And I know there be many great and illustrious Hero's near his Majesty, (to whose service I could willingly sacrifice an hundred lives had I them) that do abominate so pernicious a Council. 'Tis not for me rashly to touch heads irradiated with the Beams of Royal favour: For my part I meddle not with the person, but with the Advice abstracted, Amo hominem, odi vitia, is a good Rule

And I praise God and the King, we live not now in an Age wherein it is more hazardous to discover, an evil action, than to commit it, or wherein the justly accused shall take Revenge of the just Accuser.

Neither would I be understood here to erect my self into an Advocate for the Trade and mystery of Banking, A God's name where the Usuries of those people are by the King found outrageous and illegal, let them be regulated and reduced to just moderations. All that I contend for is, that the Bankers (whose concernments are now apparently become ours) may by Opening the Exchequer be enabled to satisfy their just debts to their Creditors, that so the good and bad, the nocent and innocent may not thus be overwhelmed together in one and the same common Ruine.

Sir, let us not flatter our selves, posterity will assuredly discourse our Actions, with the same freedom that we do those of our Ancestors. Irrident Annalium da est eorum socordia (saith Tacitus) qui presenti potentia credunt extingui posse sequentis ævi memoriam. The improvidence of those persons (saith he) is ridiculous, who think by present power to extinguish the memory of future Ages. No this cannot be, the voluminous Histories of all Nations which we daily read and handle, prove this project altogether idle and impracticable. Certainly there abides in mankind an immortal principle, a Ray of the Divinity which naturally inclineth us to a desire of Glory, and to have our names guilded to all Ages in the eternal Records of Fame.

Now Sir because you shall see with what Candor and fairness I will prosecute

secute this Argument, I shall deduce my following Observations from the wisest Historians and Statesmen, from the greatest and most glorious Princes that the world hath at any time afforded from justiciaries of the most profound Learning, and chastest integrity, nay from bodies of the wisest men of this and other nations in conjunction, from Parliaments and their
Becons Essay of Determinations remaining with us upon Record, and (because I would take off all imaginable objection to the credit of my Authors) I shall produce only such which have long since departed this life, which for that reason (as a
Alphonso King of Castile: wise King was used to say) were the most faithful Counsellors. Such as these
Li. si Epistola ad polis (as Isocrates tells) cannot be daunted with fear, or blinded with affection, or corrupted with preferments.

Castellanus de Officio Regis Lib. 1. cap. 55. These have indeed the character of true Counsellors, which is, Ut non modo ne quid falsi dicere audeant, sed etiam ne quid veri non audeant, that they will neither dare to tell a falsity, or conceal a truth.

De clementia Lib. 2. cap. 2. That would rather (as Seneca tells Nero) Veris offendere quam placere adulando. Offend by telling Truth, then please by destructive adulations and flattery. And lastly, such which Demetrius Phalereus advised King

Stobzeus sermone 46. Ptolomy to converse with often; because quoth he, ibi quæ amici monere non audeant Reges, ea facile omnia possint reperire. There Kings may discover those matters themselves, which possibly their best friends sometimes dare not advise them to.

Sir, I fear I have trespass too far upon your patience by way of Letter already, I shall therefore for your farther satisfaction in all these particulars refer you to the ensuing discourse, detaining you here no longer then while I subscribe my self,

Dear Sir,

Your most Faithful

friend and

Servant

Sma. Ro.



THE Introduction.

THE Kings Debt to the *Bankers*, with the miserable consequences thereof, hath now (for little less than three years together) exercised the world with matter, not only of discourse, but astonishment. For indeed who will not be startled to see the common Faith of a Nation violated, and a forcible breach made upon all that may be call'd Religious and binding, and this also in great measure, to the Ruine of Orphans and Widows, and several, even of those who with unwearied constancy resisted unto blood, and loss of whatsoever was dear unto them in defence of the Crown of *England*. I shall not here lanch out into the story of particular cases, that Theme will be infinite, and of force to endue stones with speech, and (by a contrariety of Miracle) to overwhelme the most eloquent with silence.

I doubt not but I have already Arrested my Reader with frequent amusements, and he is by this time impatient to know what may be the reason of all these words? and wherefore a private passenger in the Ship of the Common-wealth, should in this manner concern himself in the saying thereof?

I answer, First that every Subject is obliged to vindicate, and propugne the Honour and Innocency of his Sovereign; and to cast the Envyies and Malignancy of Pessilent Councils, upon the Donors and contrivers thereof, and perhaps this duty could neer be more seasonably exerted then in this present Case. For I should be sorry that this Advisor (as a person of great Honour and worth, said not long since, of one of them openly) should like a Rabbit start out of his Borough, and look about him, and then run in again.

again, and hide himself, and think no-body observ'd him. Certainly he is no good Minister or Servant that will throw the odium of his own evil actions upon his Lord and Master.

Essay of Sedition and troubles
Entropius lib. 8.
Boterus de politica, lib. 7. c. 8.
Thuanus Epistola ante Historiam suam ad Hen. 4. Francie.
Taciti Hist. lib. 3. in proemio.
I answer, Secondly that all men are interestted in the safety of the Vessel they are imbarqued in, though all ought not to preside at the Helme: And pernicious Advices (like the falcities of the Turkish Alchoran) oftentimes gain strength by the prohibitions of disputing them. I know I shall be thought to broach a Paradox, if I should affirm that some moderate freedoms of this nature, have been sometimes Characters and marks of the happiest and most peaceable Ages of the world; and yet if this assertion be not in some measure true, we must abandon faith to all History: For (as the Lord Bacon well notes) such Liberties give vent and discharge oftentimes to popular discontentments, and besides the Prince is hereby instructed in what part the Subject is pinch'd and griev'd, when perhaps he shall attain this information no other way. And therefore *Augustus Cesar* (one of the happiest and greatest Prince it may be that the Sun ever saw) when he was told at any time, that even his own person, and his Edicts were too boldly discours'd of in Rome, would say, *Quod in Civitate libera, linguas quoque civium liberas esse oportere.* That in a free City, the Citizens discourse ought also to be free. And this candid profession of his, might possibly be no mean ingredient in the composition of his own felicities. *Thuanus* writing to the great *Henry the 4th. of France*, unto other Laudatives of that Princes Reign, adds this, as none of the meanest. *Ea est Domine rara tuorum temporum falcitas* (saith he) *in quibus unicuique sentire quæ velit, & quæ sentiat eloqui licet.* Such (Great Sir) is the rare happines of your times, that in them every man may think what he pleaseth, and speak what he thinketh. And of the same complexion was that serene Age, in which the excellent Emperour *Trajan* Reign'd, as *Cornelius Tacitus* (who was then living) affirms, from whom the said *Thuanus* seems to have borrowed the very individual words before recited. I write not this in countenance of clamour, and scurrilities against those things which I have alwayes revered and held sacred; but under favour, in our present case, where all nature is big, and in travail to be delivered of speech, I hope her voice shall not be stifled and suppress'd.

Thirdly, I shall redargue this Objecter, with that principle (which the Advisers of this calamity have thought so puissant) I mean exigences, and invincible necessity, a necessity of no ordinary nature neither, but of near allyance to that thing which we proverbially say breaks through stone walls, that in hard winterly weather infuseth boldness even into Brutes, that also where nature languisheth, and the means wherewith she should be supported are unjustly subtracted from her. The old Comicke saith well

well 'T'aylorson *in diuina* loq. *Be tota pecunia Anima, & sanguis est mortali-
bus.* Money is the life and blood of mankind. To deprive a man wrong-
fully then of that little money which he possesseth, what is it but to deprive
him of his blood, yea of his life? I know the great and opulent men of the
world cannot descend so low as to conceive how much it importeth poor
men and their Families to be in a moment dispoild of all their subsistence,
and to be bereav'd perhaps of a few poor weather-beaten, water-drencht
Reliques, which they had rescued out of the wrecks of their Fortunes in
the late dreadful storm of Rebellion, but yet they may please to believe,
that we are as much pained with the pressures of our Little fortunes, as they
are with those of their great ones. I speak this not out of any pride I take
in comparing great things with small, but only to dispose my Reader to a
favourable construction of my words, if my zeal may seem to transport me
beyond the bounds of decency.

Lastly I am not altogether without hope, but that something possibly may
happen to be said in this Scribble, that may conduce to the healing up this
wound again. For the Physicians have a good Aphorism, *Primus gradus
sanitatis, est novisse morbum.* The first degree of health is to know the na-
ture of the disease.

I know some men are apt enough to alledge, that this case is the less con-
siderable, because but a few persons are therein concerned. In this place I
shall say no more, but that this Assertion is a great mistake. For first, our
Money being expended for the defence of the Kingdome, it was laid out up-
on the publick utility, and certainly it will be very disproportionable that
the common advantage should be maintained by a private contribution, and
upon this reason a person of great Honour and prudence not long since in an
Audience of the whole Kindome doubted not to affirm, *That this concern
was little less then national*

But because this may seem to many to be but a precarious and begging
Argument, and being founded upon a consideration of service and advan-
tage, some time since done, may (in this ungrateful Age) prove but of
mean regard. I will therefore Secondly, demonstrate this matter to be of
Epidemical concernment in point of continuing and permanent interest: In
order to this, I will suppose that the King owes a Banker 1000 l. this
Banker owes me the like sum, I owe as much to a third, he to a fourth, and
so in *infinitum*, and the Banker, my self, and the third person, have little else
to satisfie our Creditors than this 1000 l. which is owing severally to us.
(which case may be well supposed to have hapned since the stop of the Ex-
chequer) In this case then I say, it will be most evident, that if the King
never payeth the Banker, the Banker can never pay me, or I the third per-
son, or he the fourth, so that by a necessary chain of consequences, the 4th.
person and his Creditors in *infinitum*, are as much grieved by the King's

non-payment of the Banker, as I my self, who am the Bankers immediate Creditor. For as (I said before) money is the blood of the Body Politique, and we know if the circular on thereof be stoppt in one Member, that blood can never be transmitted to the neighbouring Vein, and thereupon not only that part, but the whole body in fine becomes Feavourish and languishant. The like may be said of Rents, Executorships, Legacies, &c. And I doubt not but every man's consideration, and the particular interests of most persons, will furnish them with infinite instances of like nature, in a very little time.

The Principal Creditors of the Bankers have been computed to a number, little inferior to this. The Creditors by consequence are far more.

But if this Reason prove not sufficiently prevalent in this matter, I must be inforc'd to go a step higher, and to say, Thirdly, That if this proceeding fall out to be an invasion of property (as I think I shall anon prove it is) then I say every individual person will be interessed in the Fate of this Cause. For by the same reason that the Rights of Ten thousand men may be violated, the Rights of Twenty thousand men may, and so in *infinitum*. And I think it is obvious to every man, that the publique and Parliamentary Cares, and wisdom of this State have been extended in point of redressing Grievances, not only to bodies of men, in number much inferior to ours; but oftentimes even to particular persons, where the preasures have been enormous.

This is the Answer I shall give to this Allegation at present, in the sequel of this discourse, very probably I may add more.

These things premis'd, I shall now forthwith address my self to the main business. In the Argument whereof I shall observe these Gradations, or steps.

1. First, I shall shortly put the case (as it now stands) between the King and the Bankers.

2. Secondly, I shall prove that by this Council of stopping payments in the Exchequer, the Subjects property is invaded at Common Law.

3. Thirdly, that hereby it is invaded contray to the Statute Law.

4. Fourthly, that this Council is expressly contray to his Majesties gracious promises and Declarations, Printed and promulgated by His own especial command.

5. Fifthly, I shall at large answer the grand Objection of necessity, and National danger (supposing too our fears to be at that time just) And shall prove by sundry Records and otherwise that the Subjects property is not violable but by his own consent, in cases of far greater National Danger then this was. I shall answer, the Rapines of *Ed. 1.* and *3d.* (and because I would take up this Objection by the Roots) I shall then shew what courses the Law hath provided for preservation of the Kingdome, where the danger is instant and cannot stay for a Parliament.

6. Sixthly I shall prove that this Council is contray to the Pollicies higher-

hitherto used by the wisest Foreign States of the World, in far greater Exigencies then ours. I shall answer the Objection of some Princes not repaying Money lent them by their Subjects, to retain them in better Obedience.

7. Seventhly, I shall prove this Council to be contrary to common Reason, and in some respects to violate the Rules of Humanity. That it is pernicious to the credit of his Majesties Exchequer. Then I shall truly state the case between *Phillip* the 2^d. of *Spain* and the Bankers of *Genoa*, and shall prove that case essentially different from ours.

And Lastly, shall frame a Conclusion upon the whole matter.

SECT. I.

The Case put between the King and the Bankers.

I think it is now evident enough to every man that understands any thing, that the concernment of the Bankers is now become the concernment of their Creditors, and that both their interests are common, and so inseparably twisted together, that the prosperity of the latter, will depend altogether upon the Fate of the former. Insomuch that if the Banker never receive his debt, I do not in probability see how he will be able to satisfy his Creditor: we are therefore by invincible necessity obliged to maintain the right of the Banker, and in order thereunto I will now put his Case, which in short is no more but this.

A Banker lends to the King an hundred thousand pounds, more or less; this money is secured to the said Banker upon the Customes, or any other Branch of the King's Revenues, &c. by Order Registred in the *Exchequer*, or by Talley of Loane, or both, and then the King (upon the War-like preparations of our neighbour Princes and States) is advised to make stop of all payments out of the *Exchequer*, which is executed accordingly; whether by this Council executed the Subjects property be invaded? and I clearly conceive it is.

That by this Council of stopping Payments out of the Exchequer, the Subject's property is invaded at Common Law.

Lambard's Archaion. Fortes. de laudibus Legum Anglie. cap. 17. Dugdale's Origines Juridicales. Infinite Authorities there quoted to prove this, See there Fol. 5. 6.

IT is an Essential principle of the Law of this Realme. That the Subject hath an undoubted property in his Goods and Possessions. Otherwise there shall remain no more industry, no more Justice, no more valour, for who will labour? who will hazard his person in the day of Battail for that which is not his own? How can the Subject by any Act of Bounty ingratiate himself with his Sovereign? Neither was this Right of propriety introduced here by any Charter or Edict of Princes, but was the old Fundamental Law, springing from the Original, Frame, and first Architecture of the Kingdome. There were manifest Footsteps of this Law in the British, Roman, Saxon and Danish Governments here, nay it was of that vigour and puissance to survive even the very Norman Conquest; To prove which I shall crave leave to produce this following short memorable Record. *One Shirboorn a Saxon at the time of the Conquest, being seized of a Castle and Lands in Norfolke, William the Conqueror gave the same to one Warren a Norman, of principal Quality; Shirboorn dying, his Heir shewed to the Conquerour that he was his Subject, and that he ought to Inherit the said Castle and Land, by vertue of that Law which he himself had establishd in England. In this Case the Conquerour gave Judgement for Shirboorn against Warren, and pronounc'd his own former gift void. See for this Camden in his Description of Norfolk. And Sir John Davis Rep. 41. a. The Case of Tanistry. And there it is said by Judge Calthrop, that he himself had seen an Authentique Copy of this Judgement.*

For indeed the Common Law is not more solicitous of any one thing then to preserve the property of the Subject from the inundation of the Prerogative. And therefore where a custome is to pay Toll for all Catle that shall be driven over a common Bridge, this Custome shall bind the Subject but not the King; but where a Custome is to pay Toll for all Catle that shall be driven over a mans private Freehold, there the Custome shall prevail against the Prerogative, and what's the Reason? why, because the Law will not allow the King to invade the Subjects Inheritance and Property without consent and compensation, For this see the express book of 46 of Ed. 1. cited in Plowden 236. a. The Lord Barkley's case. Many other cases of this nature are there recited, and in other Books of our Law, which for brevity I forbear to mention.

To come then to the Hinge upon which this point turns. I do lay this down for an indisputable ground. That the Law of the Court of *Exchequer* is the universal Law of this Land, and so is *Plowden* 320. b. and 321. b. The case of *Mines*, and *Cook's 2d Report* 16. b. *Lanes* case adjudg'd. Now then by the Law of the *Exchequer*, when the King hath charged himself to the Subject by Talley and liberate (as in our case) to pay a summe of money out of his Customes or any other branch of his Revenue, and his Collector hath received this Revenue; this money though at first it appertains in property to the King, yet as soon as ever the Kings Creditor comes to this Collector, and shewes him his Talley and Liberate, and demands payment accordingly, the property of this money (to the proportion of the Debt) by meer operation of Law, is transfer'd out of the King into the Collector or Receiver, and in an instant becomes the proper and personal Money of the said Collector, or Receiver; in respect of his charge over to the party. And so it is clearly affirmed by all the Judges of both Benches *Plowden* 186. a. Lord *Darcyes* case.

And therefore if the King grant a summe of money to *J. S.* to be received out of his Customs of *London*, I say that by the delivery of the Talley Liberate, and assigns in the hands of the Customer, the Customer is become a Debtor to *J. S.* and he may bring his Action of Debt upon this matter against the Customer. *Coke's 4 Institutes*, 116. F. N. B. 121. F. 21. H. 6. Fitzh. Debt 43. 27. H. 6. 9. Fitzh. Bar. 314. *Brook Talley d' Exchequer*. 1. 37. H. 6. 15. *Brooke* *ibid.* 3.

Nay in such case if the Receiver dye, the Action will lye against his Executor. And therefore where the King had granted a Fee by Patent to the Clerke of the Parliament to be received out of the profits of the Hanapar, and the Clerke of the Hanapar dyed, yet adjudged that debt would well lye against his Executor, because so much of the Kings money was altered in property in the hands of the Testator, and yet here was no contract, privity in word; suit or Execution of Law between the King and Testator, or Executor. 2. *Hen.* 7. 8. b. &c. *Fitzh. Bar.* 124. *Plowden* 36. b. and 186. a. So if the King assign Talleys upon the Dismes (granted him by Parliament) to his Creditors, and they shew them to the Collectors of the Dismes, the King is hereby discharged, and the Collectors are charg'd, and the King cannot pardon the Collectors, or the Clergy which granted the Dismes. 1. *Hen.* 7. 8. a. *Brook Chavren de pardon*, 37. Nay so careful is the Law of the Subjects property in such case, that if after a like grant of the Dismes, the King should dye, yet the Collectors are chargeable to the Kings Grantee and not to his Successor. 1. *Hen.* 7. 8. a. *per omnes Justitiales.* *Brooke Quinzime* 7. *Fitzh. Quinzime*. 2. *Brook Talley d' Exchequer*, 5.

Ob. Now if any man shall say to me. Sir you have abundantly prov'd the

stopping of the Exchequer, to be an invasion of Property as to the Collector and Customers, and the like by the Common Law, but nothing at all as to the Banker or his Creditor, which was the position you undertook to maintain.

To this Objection, I give this plain Answer. That the stop of the Exchequer to the Collectors, Customers, &c. is by inevitable consequence a stop to the Bankers and their Creditors, (and so likewise their property violated) because by this Obstruction the Collector, &c. is disabled to satisfy the Banker, and the Banker his Creditor, and that Creditor his Creditor, and so in an infinite rotation throughout the Kingdom: just as a wrongful disinheretance of the Grandfather, is an injury to the Father, and Son, and so to all their Line in succession to the world's end. Or (because this is the Hinge of the case as to the Common Law, and I would make it plain) I will suppose twenty Mills to be built upon one River, each of them in sequence one below the other, a person comes and damms up this River, or diverts the current thereof into a new Channel: I do say that by this diversion or Obstruction of the Stream the 20th Mill is injured as well as the first, because (if there were no Impediment) that water which comes to the first Mill would at the long run arrive to the twentieth.

In so plain a case I need not make any Application, or indeed use any farther Argument as to the Common law-part of this discourse. I shall therefore cite but one other case, and that a far stronger one than ours, and then discharge my self of this Section.

The Case is *Mich. 1. Hen. 7. Fol. 3. b.* and abridg'd by *Fitzherbert Barr. 122.* *Tous les Justices fueront al White Fryers pur leur Fees, &c.* (saith the Book) All the Judges were assembled at *White Fryars* to consult about the payment of their Salleries which were behind. And their Case was this. By a Statute made 18. *Hen. 6.* it is Enacted that the Customers shall pay the Judges their Salleries, out of the first Moneys arising out of the Customes of *London.* And then *Richard* the third grants License to certain Merchants to carry Wools, and to retain the Customs thereof in their own hands (which was as it were a little diminutive stopping of the Exchequer as to the Judges in this Case.) And the question was whether the Customers shall be chargeable to the Judges for those retinements of the Merchants; and after mature debate, Resolved by them all, That the Customers were chargeable even for those retinements, though they never came to their hands; and in the end of that case, it is said, that the Judges design'd each of them to bring his Action against the Customers, which they perceiving, they forthwith agreed with the Judges to pay them their Salleries.

Now any man that shall well consider this case will find the Reason thereof to be, because though the King had granted the Privilege of retaining the Customes to these Merchants, yet in contemplation of Law, the Customers did still actually receive those Customes, and so were chargeable to the Judges (like the case I put before of *Hen. 7. 8. 4.* where the King remitted the Dismes to the Collector, or Clergy) and the rather in this case, because this private License of the Kings shall not prevail over an act of Parliament, which had secured unto them their Salaries out of the Customes, which leads me to the next position which I have proposed to assert, which is.

SECT. 3.

That by this Council of stopping Payments in the Exchequer, the Subjects Property is invaded against Statute-Law.

Our Books tell us (and not without Reason) That the Parliament *Est un Court de tres grand honor & Justice, de que nul doyt imaginer chose dishonourable*, is a Court of thrice great Honour, and Justice, of Earle of Leicester's case. which no man may presume to think a dishonourable thing. And we cannot but suppose (saith the Lord Chanceour *Fortescue*) that Statute Laws carry with them no mean force as well as Wisdom. *Dum non unius aut centum solum consultorum prudentia, sed pliusquam trecentorum electorum, Fortescue de* &c. When they are the results not of the prudence of one or two or three hundred only of the Select men of the Kingdome, but of a far greater number. In this Orbe, the King like the Sun shines in the Exaltation of Majesty and grandeur, invironed by the illustrious members of both Houses, and from the conjunction of this great and lesser lights, propitious and refreshing influences are derived to the whole Kingdome. The Acts of this Court are the highest securities this Nation can give, and such securities that do in themselves comprehend the universal consent of all mankind in this Realme, as well future as present.

*Hobart 256.
Duncombs case.
21 Hen. 7. a
per Vavasor.*

I shall not here insist upon the Grand Charter, or upon any other Bulwarks of propriety of that nature (though possibly pertinent enough to my purpose) but shall rather choose at present to apply my self to a Statute-Law of much fresher date and memory, and design'd for the Relief of this very particular case. And that is the Statute of 19. of his now Majesty, Chap. 12. which I shall recite (so far as it concerns my purpose) *verbatim.*

Whereas

Whereas it hath been found by experience upon the late Act for Twelve hundred and fifty thousand pounds, made at Oxford, and other Acts of Parliament since that time, that the power of Assigning of Orders in the Exchequer upon those Acts, without Revocation, hath been of great use and advantage to the persons concerned in them, and to the Trade of this Kingdom, and given great Credit to His Majesties Exchequer: Be it Enacted and it is hereby Enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, That every person or persons, Native or Forreigner, Bodies Politique or Corporate, to whom any Moneys shall be due in your Majesties Exchequer, and shall have any Order Registered in the Office of the Auditor of the Receipt, for the payment thereof out of any branch of your Majesties Revenue; That such person or persons, Native or Forreigner, Bodies Politique, or Corporate, their Successors, Executors, Administrators or Assigns, respectively, by Endorsement of their Order, may Assign and transfer their Right, Title, Interest and Benefit of such Order, or any part thereof, to any other; which being notified in the Office of the Auditor of the Receipt aforesaid, and an Entry and Memorial thereof also made in the Book of Registry aforesaid for such Orders (which the Officers shall on request accordingly make) shall Entitle such Assignee, his Executors, Administrators and Assigns, or Successors respectively, to the benefit thereof, and payment thereon. Now it will be plain to any man that shall consider this Statute, that the Parliament doth therein admit an unquestionable duty of the Money, to the Lenders in the Exchequer (for so are the words, Every person to whom any money shall be due in your Majesties Exchequer &c.) and the makers of this Act, could never mean that nothing should be transferd to the Assignee: For indeed all the Powers of the Universe can never make me Donor of that which never appertained to me, nor I never had in me to give. And therefore this money must first of necessity vest in my self in point of property, before I can transfer it to another person, so then if this Law secure this money to my Assignee, *a multo fortiori* to my self. Now that this Statute secures this money to my Assignee, I shall prove by three unanswerable reasons (as I suppose) all drawn out of the Bowels of this very Law it self.

First, the Inducements of this Statute appear in the preamble thereof to be. Advantage to the persons concern'd. To the Trade of the Kingdom and also great credit to the Exchequer. Therefore the makers of this Law could never design a transferring of the husk or shell only, that is of the Order or Paper, but even of the fruit it self, I mean the money in *specie*, for that is it which carries the Advantage, the Trade, and the credit with it and not the Order or writings as many of us find by wofull Experience.

*Nit dat
quod non ha-
bet.*

Secondly, there is no man doubts but that the moneys lent upon the Oxford Act of 17. Car. 2. cap. 1. for 1250000*l.* And upon the Pole-mony, Bill 18. Car. 2. cap. 1. And upon the Act of 19. Car. 2. cap. 8. for 1256000*l.* were unquestionably secured to the Assignees of the Lenders by those several Acts; why then I say that all moneys since that time Lent into the Exchequer, & charg'd upon any branch of the King's Revenue, are equally secur'd to them by this Act, and that not only first because this Act in the preamble thereof refers expressly to those other Acts; But Secondly, (then which I think nothing can be plainer) because the moneys secured by this Act to the Assignees are secured with almost all the same numerical, identical words, with which the moneys lent upon the three other Acts are secured: And this will be obvious to any person that shall curiously compare all these Acts together, to the which for brevity sake I am inforc't to refer my Reader.

Lastly, this Act declares in exprest terms that the Assignees of such Orders for money due in the Exchequer, their Executors Administrators and Assignes in *infinitum* shall be Entitled *To the Benefit of such Orders, and Payment thereon*, which words being so plain, that he that runs may read, and wrote as it were with a Beame of the Sun, I think there can be no place left for farther cavil or subterfuge in this matter.

I had almost forgot to observe that this Law (the King being therein concerned) is a general Act of Parliament, of the which not only the Judges, but even every individual Subject of this Kingdome ought to take knowledge of course; for as the inferiour Members (saith the Book) cannot estrange themselves from the actions and passions of the head, no more can any Subject be a stranger to the concernsments of his Sovereign. *Cooks 41b. Rep. 77. a. Hollands case. Plowd. Lord Barkley's case, ibid. Wimbishes case.* This I would add to those Answers I gave before to the Objection, that this affair was private, and that few persons were concern'd in the present Case of the Bankers and their Creditors, now I proceed.

That this Counsel of stopping up the Exchange, is expressly contrary to His Majesties gracious promises, and Declarations Printed and publish't by His own especial Command.

MY design all along in this discourse being to discover the pestilence and mischief of this Council, in relation as well to his Majesty as his people. I cannot with better advantage discharge my self of the Province I have undertaken in this Section, and manifest how unhandsonly his Majesty hath been treated by this Adviser, then by considering a while the sanctimony of promises among Princes.

Nothing then I say is more sacred or tremendous among Princes than their publick Faiths and Declarations. This the Emperour *Tiberius* understood well when he said *Ceteris mortalibus in eo stant concilia quod sibi conducere putant, principum vero, &c.* Inferiour persons may order their Councils, as they best sort with their advantages, but the condition of Potentates is different, whose actions are principally to be directed to Fame and Glory. And for this reason *Q. Elizabeth* in her private Letters to *K. James*, was used to admonish him that a Prince must be such a lover of Truth, that more credit may be given to his bare Word, than to anothers Oath.

And we know that the man after God's own heart, and a King too, writes, *Psal. 15. 5. He that promiseth to his Neighbour, and disappointeth him not, though it were to his own hindrance.* I do never without Admiration think of that great saying of *Charles the 5th.* Emperour, when he was prest to break his word with *Luther*, for his safe return from *Wormes.* *Fides rerum promissarum* (quoth he) *et si toto mundo exalet tamen apud imperatorem eam consistere oportet.* Though the faith of promises should be banisht out of the world, yet it ought alway to find Sanctuary in an Emperours breast. And to this virtue even *Gamparella* the Jesuite doth vigorously advise *Phil.* the Spanish Monarch of Spain, for nothing faith he doth more effectually oblige the Sub-narchy c. 27. ject to the Prince then fidelity of promises. By this means (continnes he) *Alexander Farnese* Duke of *Parma*, contain'd the Netherland in Obedience to Spain, whereas the Duke of *Alva* by the contrary course lost them. And this will not seem strange to a man that shall consider, that *fides* (as *Tully* saith) *est justitia fundamentum.* Faith is the Foundation upon

Tacit. Ann. lib. 4.

Camden and Baker vita Elizabeth, Regina.

Xenocrus vita Caroli 5.

Spanish Monarchy c. 27.

Cicero 1 Of Ec.

upon which Justice is built, *Iustitia vero nulla esse potest* (saith Boetius) *nisi conventionum fuerit, & promissorum certa fides, ac necessaria solutio* Boetius de post. lib. 2. c. 9.
terum creditarum. But there can be no Justice without performance of promises, and fair satisfaction of Debts. And this most of all in the case of Princes, for (as Bodine affirms) *Cum summus Princeps mutua fidei inter privatos ac Legum omnium ulior & vindex est, quanto magis datam acap. 8.*
se fidem ac promissa servare tenetur. For when a Prince is himself to De Rep. Lib. 1. Fortescue c. 37.
avenge the violations of Faith and Lawes among his Subjects, how much more then ought he himself to observe his own Faith and Promises: And in this very point he voucheth there a judgement of the Parliament of Paris against Charles the 9th. of France, and a little after adds, *Itaque in iudiciis cum Fides principis agitur, &c.* Therefore saith he, when the Faith of a Prince happens to be debated in Judicature, we are rather to consult the benefit of the Subject, and in such case to treat the Prince more severely.

And this indeed is no more then what the municipal Lawes of this Kingdom warrant, which say, that the Grants of the King are to be Expounded liberally, and withal imaginable favour to the Subject, for the Honour and Dignity of the King, as also that the King's *Teste meipso is Recordum Suparlativum*, a Record of the highest puissance and grandeur. I have the more largely here dilated upon this Subject, that I might with a greater clearness disclose the Poyson of this Advice, it being so apparently contrary to his Majesties most gracious Promises and Declarations Printed and promulgated by his own immediate Order, and particularly that of the 8th. of June 1667 (of the which several Copies then Printed were preserved by my self and others, as the highest Muniments and Securities for our Monies in the Bankers hands.) Cooks II. Rep. Magdalen College case.

This is stiled *His Majesties Declaration to all his loving Subjects to preserve inviolably the Securities by him given for monies, and the due consecration of payments thereon in the Receipt of the Exchequer.* In this Declaration (about the middle) these very numerical words following are inserted, See this Declaration in the end of this Treatise
And that we will not upon any occasion whatsoever, permit or suffer any Alteration, Anticipation, or Interruption to be made of our said Subjects (that is, of the Bankers) Securities, but that they shall from time to time receive the moneys so secured unto them (upon several branches of the Royal Revenue, and other late Acts of Parliament saith the preamble) in the same course and method, as they were charged and ought to be satisfied. Immediately after follow these remarkable words, *which Resolution we shall likewise hold firm and sacred in all Future Assignments and Securities to be by Us granted upon any Other advance of money by any of our Subjects (note this is general) upon any Future Occasion for our service. And we cannot doubt upon the Publishing this Our Royal Word and Declaration of*

Our Sincere Intention, but that all reasonable persons will rest satisfied, &c.

Now I would fain know what more adequate or preventive words could have been devised by the Wit or Providence of men and Angels to have stilled so great a calamity in the Birth.

Neither will it be an Observation perhaps altogether immaterial and impertinent, that in the very next Session of Parliament, viz. in the October immediately following the Statute of the 10th. of his now Majesty, cap. 12. (which I have before recited) was made, as it were in Buttre's and support of this Royal Edict and Declaration.

These things standing thus as I have represented them, however the King's Honour and Justice (like a Rock of Diamonds) remains still impenetrable, neither is his Sacred Majesty in this case any more to be accused of the breaches of fidelity, then the chaste *Lucretia* was guilty of incontinence, when wearied out and forc'd by the Adulterer. *Duo fuerunt* (saith the holy Father) *at unus commisit Adulterium*. Two they were, and yet but one of them committed Adultery.

When Judge *Thorp* was condemned to death in Parliament for Bribery the reason of that judgement is given, *Quia* (saith the Record) *predictum Wilhelmus Thorpe sacramentum domini Regis quod erga populum suum habuit custodiendum, maliciose false & rebeliter fregit &c.* Because the said *William Thorp* had broken the Kings Oath, it doth not say his own Oath, but the Kings Oath, that solemn and grand obligation, which is the security of the whole Kingdome, and the knot of the Diadem, so that as the Kings Oath may be broken by others, (his own unspotted honour and justice unviolated) so likewise may his Royal Faith and gracious promises as in our case.

Rot. Parl. 24.
Ed. 3. pars. 3.
Memb. 2. in
Dorso. Et Rot.
Parl. 25 Ed. 3.
Pars 12. memb.
17.

SECT. 5.

The grand Objection of necessity and National Danger' supposing also our Fears to be at that time just) considered as large and Answered. That the Subjects property is not violable in this State, but by his own consent, in cases of far greater National danger then this was, proved by sundry Records and otherwise, the Rapines of Edw. the 1st, and 3d. upon the Subjects Moneys in Churches, &c. considred and answered. what courses the Law hath provided for the preservation of the Kingdome, where the danger is instant and cannot stay for a Parliament.

I am now at length arrived to the grand Objection of this case, the validity of which I am necessitated (though with reluctancy in my self) to consider, because if this Objection prove impregnable, the Council of stopping the Exchequer may seem to be built upon a good, or at leastwise an excusable foundation, and so in all that I have hitherto said, I shall seem to have trifled with and eluded my Reader. And herein (because I pretend not to any Arcanums of State) I shall handle this point by way of Admittance, and shall suppose that the fears and jealousies which at the time of shutting the Exchequer did possess this State were just, and such as might well fall upon constant and deliberating mindes. The Objection then will run thus.

Ob. That our Neighbour Princes and States were making vast preparations for War, that the Heavens about us were black and Cloudy, and where the storm might fall no man could Divine. That Necessitas est Lex temporis, Quæ non habet Legem. That necessity and self preservation superintend all Lawes. That it is more eligible to lop off one member from the Body Politique, or at leastwise to let an Arm, or perhaps a finger thereof bleed, then that the whole should be endangered, &c.

Sol. The Objection I must confels is important and weighty, and will deserve a substantial Answer. In order thereunto I must in the first place mind my Reader that I have (as I suppose) by irrefragable Argument proved the property of the Subject in this case violated. I will then add, that it is a Fundamental Law of this Realm, that the Subjects propriety is not violable, no not in cases of National Danger, without his own free and voluntary consent, and that, First by the consent of his own individual

petition, or Secondly by that of his Representatives in *Parliament*, to whom he hath delegated his consent. To prove this I could produce infinite Records of *Parliament* and other Courts, but (for brevities sake) I shall content my self with some few, doing herein like one that chooseth 5 or 6. full eares of Wheat out of a select sheaf, who must necessarily leave behind him as good as he takes.

The first Record therefore that I shall insist upon, will be that memorable one of 14. *Ed. 2.* in a Writt of Error upon a judgement given in *Durham* in Trespass by *Heyburne* against *Keylow*, for entering his house, breaking his Chest, and taking away 70*l.* in money upon a special verdict, the case was this.

Mich. 14. Fd. 2. B. R. Rot. 60. The Scots had entred the Bishoprick with a formidable Army, making great burnings and spoil, the Commonalty of *Durham* (whereof the Plaintiff was one) apprehensive of the common danger, consulted together, and at length agreed to send their agents to compound with the Scots, for money to depart, and were all sworn (the Plaintiff being one) to perform such composition, and also what Ordinance should be made in that behalf, thereupon they compounded with the Scots for 1600 Marks, but because this Money was to be paid without the least delay, they all consented that *Keylow* the Defendant and others, should go into every mans house, to search for ready Money, to make up the said summe, and that it should be repaid by the same Commonalty, and thereupon the Defendant entred the Plaintiffs house, and took the said 70*l.* which was paid toward that Fine. The Jury were demanded whether the Plaintiff was present, and consented to the taking of the Money, they said no. Whereupon the Plaintiff had Judgement to recover the 70*l.* upon this Judgement the Defendant brings his Writt of Error in the Kings Bench, and assigns error in point of Law, and there the Judgement was reversed, because *Heyburn* (whose Money it was) had agreed to this Ordinance, and was sworn to perform it, and *Keylow* had done nothing but by the expresse consent of *Heyburn*, and therefore was no Trespasser, and that *Heyburn* had no other remedy for his Money, but against the Commonalty of *Durham*. By which it appeareth, that if the owner of the money had not particularly consented, such Ordinance could not have bound him, and yet this was in a case of imminent danger, and for publique defence.

Rot. Parl. 2. Fi. 2. pars 1. a. The next is a Record of the Parliament of 29. *Ri. 2.* some little time before this Session, the French had actually invaded this Realm, they had burnt *Portsmouth*, *Dartmouth*, *Plymouth*, *Rye* and *Hastings*, they had possessed themselves of the Isle of *Wight*, beleiged *Winchester*, and at length entering the *Thames* with their victorious Fleet, came up to *Cravesend*, and burnt most part of that Town, and (which was yet worse) in the North, the Scots had burnt *Roxborough*, and were ready to overrun all the North

of England, the Realme being thus beset both by Sea and Land with the united puissance of two mighty Kingdomes, and like a Candle burning at both ends, the publique Treasure also exhausted; a great Council was forthwith called of the Prelacy, Baronage, and other great men, and Sages (or Judges) of the Nation, to consult about these difficulties, they came at length to a final resolution, the which *Scroop*, then Lord Chancellour, delivered to all the Lords in the ensuing Parliament, which (as the Roll above quoted saith) was thus. That since the last Parliament, the said Council met, and considering the great danger the Kingdome was in, and how money might be raised for the Common Defence, which could not wait the delay of a Parliament, and how the Kings Coffers had not sufficient in them, they all concluded that money could not be had for such defence, without laying a charge upon the Commonalty, and that such charge could not be imposed without a *Parliament*; and the Lords thereupon supplied the present necessity with their own money, and advised a Parliament for farther supply, and Repayment of themselves, which was accordingly done.

I think no man will pretend that our late danger (to say no more) was greater than this; and yet because there was no other course in those times thought lawful for the raising Treasure upon the Subjects Goods, then by their own ascent in Parliament, only that course was then thought fittest to be practised, which was such as ought to be obeyed.

The next Record is the Statute of 31. *Hen. 8. cap. 8.* some years before, this King had dissolved the lesser, and in the year of this Statute the greater Monasteries; which being a new precedent made a great noise, and the event thereof was apprehended with terrour and amazement all over the Christian world, this administered secret seeds of discontent to many of the people, which after broke out into open Rebellions (as our Chronicles declare) in several parts of the Kingdome; this King (though standing as much upon his prerogative as any of his Predecessors) to provide against the like suddain eruptions of this Torrent, which would not stay for Parliaments, procures a Statute to be made, that the King for the time being, with the Advice of his Council, two Bishops, two chief Justices, and divers others, might by His Proclamation, make Ordinances for punishing offences, and imposing penalties, which should have the force of a Law, but with this proviso [that thereby no mans life, or property, Lands or Goods should be toucht or impeacht] so then though the Royal Power was thus corroborated by this Statute, yet the Parliament took care, that no mans Life or Property should be ravisht from him. However notwithstanding the said Restriction, this Statute was thought inconvenient, and thereupon repealed soon after, in 1. *Ed. 6. cap. 12.*

This Kingdome never laboured under a juster fear then in the Year 88. when it was assailed by that invincible Armada, or Sea-Gyant (as the Lord

Bacon.

*His War with Spain. *Racon* * calls it) and yet every mans Right was then preserved inviolable. Nay the Queen was so tender in that particular, that (as our Historians say) She gave Express Order that not so much as an Ear of Corn should be burnt, or other Goods of her Subjects devastated, until the Enemy had actually Landed, and was even upon the very point of possessing the n himself. And therefore where the case of 8. Ed. 4. of plucking down the Suburbs of a City without the consent of the owners, in time of War, is Law, it must be understood of an actual Invasion of the Enemy, when the danger is in *potentia proxima*, and the Fire ready to take. And this

8. Ed. 4.

Claus. 11. Ed. 2. Memb. 19
Dorso pro majore & civibus Dublin.

manifestly appears by the Record of 11. Edw. 2. where the Mayor and Citizens of Dublin puld down the Suburbs of that City, but it was (saith the Record) *Super iminentem hostilem irruptionem scottorum inimicorum infra Hiberniam, & pro salvatione Civitatis predictæ, & ne dictis inimicis ad Civitatem predictam facilius pateret ingressus &c.* And yet this Corporation neither would not trust to this point of Law, but for their better security procured the King's Pardon, which yet was cautiously enough drawn: for it was *Pardonamus eis & cuilibet de communitate Civitatis predictæ id quod ad nos pertinet de prostratione predictæ, &c.* We Pardon as much as in us lies, &c. as appears by *Par. de anno 12. Edw. 2. Memb. 30. intus de pardonacione pro majore & Civibus Dublin.*

Mich. 6. Jacobi Cokes.
11. Rep. 63.

And so of the case of *Gravesend Barge*. If the Ferry-man may justify to throw my Goods over-board to lighten the Vessel, it must be upon an instant Tempest, and inevitable peril; but if the Ferry-man shall say, I see a Cloud yonder my Masters, its like to be a great storm, and thereupon shall throw them over, I doubt that is not at all justifiable in Law.

Cokes 3d Inst. 3.

I shall now draw nearer our own times, and present you with a Triumvirate of precedents (to say nothing of the Petition of Right) in one and the self same Parliament (no less then that which attain'd the name of *Parliamentum Benedictum*) I mean that of 3. *Caroli primi*.

Rushw Hist. Collect. 3. Carol

First the Judgement of the two Houses in that Parliament in Dr. *Manwaring's* case, who was sentenc'd by them principally for declaring in a Sermon (which he afterwards Printed) that the King in Cases of imminent danger to the Kingdom, might without Parliament Levy Money upon the Subject. There were other collateral charges against him its true, but this was the principal, and to this he chiefly applyed his Defence, and would have exeused this Assertion by limiting it only to Cases of National extremity, but that would not serve his turn, he himself submitting, and the Sentence afterwards affirm'd by the Kings Proclamation for suppressing the Book.

Rushw. Hist. Collect. 3. Carol

The second is the Commission for *Loane*, to carry on the War for the *Palatinate*, in which was suggested the safety and very subsistence of the King, People, and Religion to be in instant danger, that his Majestie's Coßers

Coſſers were exhausted, that the ſupply could not ſtay for a Parliament; that the King upon his Acceſſion to the Crown, found himſelf engaged in this War, and that by advice in Parliament (which I think may deſerve ſome remark) and only lending a little Money for prevention required, Now I would fain know what ſuggeſtions could have poſſibly been more ſubſtantial or perſuaſive, But becauſe this courſe was compulſary, and without conſent, theſe Commiſſions in the ſame Parliament were reſolved to be illegal, and ſo conſented to be by his Maſteſty, and ſo declared a little after in the ſame Parliament in the Petition of Right.

*Poultons Sta-
tutes 3. Car.
1. cap. 1.*

The third is the Commiſſion of Excife iſſued to 33. Lords and others of the Privy Council in which they are commanded to raiſe Moneys by im- poſitions or otherwiſe, as in their judgements they ſhall find to be moſt convenient. The Suggeſtions here, were for the moſt part the ſame with thoſe in the above mentioned Commiſſion of *Loane*, and yet adjudged by both Houſes contrary to Law; and the Lords deſired his Maſteſty that this Commiſſion of Excife might be canceld, and ſhortly after it was canceld by the King, and thereupon brought ſo canceld into the Lords Houſe by the Lord Keeper, and by the Lords ſo ſent to the Commons.

*R. ſlow. Hiſt.
colleſt. 30. Car.*

In the laſt place I ſhall cite the Statute of 17. *Car. 1. cap. 14.* For the Reverſal of the Judgement in the caſe of the Ship-writs, I am not willing (as well of brevity as other reaſons) to recite this Statute at large, but I dare engage that no man ſhall read that Law, but will ſay it is a moſt direct Judgement in the point againſt the violation of propriety in caſe of National danger. If any man however, ſhall for reaſons beſt known to himſelf, Arraign or Calumniate this Act of Parliament, I ſhall ſay no more then this. If it be Law, why may I not vouch it? If it be not, why is it not Repeald? why doth it ſtill cumber our Statute Books?

I am heartily ſorry to have had ſo invincible an occaſion adminiſtered to me here, of diſturbſing the Reſt of theſe ſleeping Muniments of propriety; but this preſumption alſo muſt be added to the black train of thoſe Calamities which follow this pernicious Council. It is but natural to mankind to bring in what Arguments they can to preſerve their undoubted Rights, eſpecially when irritated by that unhappy Thing which renders Juvenal Saty- men not only miſerable, but (as the Poet ſaith) *Ridicule and contemn'd.* 3. verſus 151. Neither have I here (I hope) invaded the juſt Regalities of his Sacred Ma- jeſty (for which no perſon hath an higher veneration then my ſelf) but rather confirm'd them. For (as Sir Francis Bacon then Attorney General ſaid) whiſt the Prærogative runs within its ancient and proper Banks, the main Channel thereof is ſo much the ſtronger, for Overflowes (he adds) evermore hurt the River.

*Guilme Jermys
Commentary
on the Cuſtomier
of Normandy.*

If any man after all this Evidence be yet unſatſfyed in this point, I will lend him to France (for I would rather find a Preſident there) and adviſe him

him to consider the case of *Normandy*. That Dutchy had been for some time rak'd with Exactions contrary to their Franchise and Customes, and thereupon complain to *Lewis* the 10th. the then French King, he by his Charter in the year 1314. recognizing the Right & Priveledges of these people, and the injustice of their Grievances, grants that from that time forward, they shall be discharged from all Subsidies and Impositions to be laid upon them by him or his Successors, yet with this deadly sting in the tail of all [*Si necessitas grand ne le requirer*, Unless in cases of great necessity] which Minute and almost insensible exception we see hath eaten up (upon the matter) all their immunities, for though these States do annually assemble, yet their Convention is little better then the carcass of a Parliament, and they are become but the necessary Executioners of the Royal pleasure.

Comines Hist. of France, Lib. 13. Foil. c. c. cap. 35.

Obj. *Ay, but did not our Ed. 1. and Edw. 3. do greater things then stopping the Exchequer? are not our Chronicles full, of their breaking even into the Churches and Abbies, and ravishing the Treasure of the Subject for Supply of their Warrs.*

Admitting this Allegation to be true, I Answer.

Sol. First, we discourse not here what hath been done, *de facto*, but what may be done *de jure*. And to counterballance these, we may put other Princes of this Realm of a contrary complexion into the other Scale.

Polydore Virgil. Ribadinira Copgrave Shyrus.

Edward the Confessor restored the *Danegeld* Money (a grievous Tax formerly in use here) to the persons from whom it was exacted, it seeming to him (as so mean Authors write) that he saw the Devil danceing and tumpling upon that vast heap of Treasure, when he was conducted by his Officers to view the same. And (by the way) this Act of singular piety he did; when his people laboured under a dreadful Famine.

Selden's Mare clausum, Lib. 2. Spilm Glossary title Danegeld

King *Henry* the Second (say our Chronicles) maintain'd great Wars, and obtain'd a larger Dominion then pertain'd at any other time to this Realm of *England*, and notwithstanding never demanded Subsidy of his Subjects; and yet his Treasure after his death was found to be, Nine hundred thousand pounds besides his Jewels and Plate. Certainly a prodigious summe in those dayes!

Speed, Baker, Haywards Hen. 4. 1. part. p. 56

It is notorious also that *Queen Mary* did by her Letters Patents, of her meer Grace and great Clemency for the succour and relief of her loving Subjects (saith that Record) pardon and remit a whole Subsidy given by them to her Predecessor, which release was afterward confirm'd by Parliament. And *Queen Elisabeth* also remitted one Subsidy of four granted to her saying, *It was all one to her, whether the Money were in Her Subjects Coffers or her own*

Old Statutes 1 Maria. 2. f. 110. cap. 17.

Gambden vita Elizabethæ.

Secondly these Depredations begot many good Lawes for the firmer munition

munion of property for future time, and particularly this violence of
Edw. 1. was executed in the 25th. year of his Reign, and in that very year
(and not in 34^o as our Printed Statute Books say) was made the Statute
de Tallagio non concedendo, with which the English defend themselves (saith De Repub. lib.
Bodine) quasi Clypeo, as with a Buckler against their Prince. 1. cap. 8.

Thirdly, this King (as our Chronicles affirm) layd this outrage much
to heart, and that before his Royal Pallace at Westminster, invironed with
infinite numbers of his people, thither by him purposely summoned, and
being rais'd up on an Ascent or Pedestal, the better to be heard and seen, the
Prince, Arch-Bishop of Canterbury and the Earl of Warwick also standing
with him. Rogavit populum accepta licentia (saith Knighton) ut omnia
condonaretur ei, & orarent pro eo. He earnestly intreated the people that
they would forgive him, and pray for him. And Matthew Westminster
goes yet farther Rex erumpentibus lacrymis (saith he) veniam de com-
missis humillime postulavit. The King bursting forth into Tears, did most
humbly ask pardon for what he had done (a passionate transport of a
Prince that before that time had rendred himself redoubtable among the
Saracens as well as the French, and that had triumphed over Scotland and
Wales!) And after he had ex-cused himself to them, with all the sweet-
ness of Expression adds. Et omnia oblata reddam vobis. And I will restore
all that I have forct from you And in pursuance of this promise forth-
with makes an Ordination of Council (which have seen in French, and
can produce the Copy) to issue forth Commissions of Oyer and Terminer,
into all the Counties of England, to enquire what things had been forc-
ibly taken by his Officers, out of the Churches or else where, from the
Clergy or Laytye, either to guard the Seas, or for any other purpose,
with warrants or without, during his Wars with France, and to deter-
mine those matters. Et ce qe serra pris, soit retourne a ceaux, qe le damage
ont receu (saith the Record) And that those things that were forct away
might be returned to them that had receiv'd the damage, and to punish the
parties offending, which Commissions were accordingly executed (ma-
ny of which I have seen, and can produce the Copies) in which are con-
tained many excellent particulars, too long here to be recited. And for
those small Remanders of Moneys which hapned not to be restored or sa-
tisfied by vertue of those Commissions, they were two or three years af-
ter recovered in the very ordinary Courts of Justice, to prove which (among
many others) I will cite his one Record. Coia. Pa. 29. Edw. 1. Rot.
18. The King pro urgentissimis Regni negotiis, & pro defensione totius
Regni (saith the Record) had seized divers summes of money in all the
Abbies, Cathedrals, and Religious Houses within the Realm, & (quo citius
commode poterit) promised repayment: In the Parliament of 29 Edw. 1.
at Lincoln the King is Petitioned for repayment, who promiseth payment.

Pat. 4. Ed. 1.
Memb. 19. intus

Pateh. 5. Ed. 3
casus 5.

For. Almania
12. Ed. 3. Mem.
22. in Dorso
De excusando
Rege populam
versus.

Ita quod Regis conscientia super hoc exoneretur, and there, and Rot. 19. Divers summes are adjudged to be repaid. Again it is not at all probable this Prince would be negligent in paying his own, that was so just in satisfying his Fathers Debts (as we find by our Records) so that upon the whole matter, notwithstanding this Objection; I think we may concur well enough with Sir William Herle Ch. Justice of the Common Pleas, who in 5. of Edw. 3. saith of this Ed. 1, (in whose time he lived) *Que fuit plus sage Roy que unques fuit.* That he was one of the wisest Kings that ever was in the World.

For Ed. 3. his Rapines likewise produc't very beneficial Lawes to the Subject, as will be manifest to any man that shall peruse the Statutes of that time. They were actions which he never justified, but excused alway with singular Resentments. As appears by his Letter (extant upon Record) to John Strasford then Arch-bishop of Canterbury, in the which he recounts the Tallages and Exactions with which he had burdened his people which (he saith) he could not mention without inexpressible grief of mind, and there exculeth himself upon the inevitable necessity of his warrs, and desires the Arch-bishop to satisfy the people, and to stir them up to pray for him, hoping ere long he should make them compensation, and give them comfort.

Ob.

There remains yet one Objection with which I am inforc't to encounter, to defendendo, because I perceive it ready to assail me. And that is, that the Parliament is a great Body, (I speak it with all due reverence) and moves slowly, and therefore if the Law allow not some other course (as this of stopping the Exchequer or the like) in raising money in case of suddain Danger, the Kingdome may be lost before the Parliament can supply.

Sol.

To this I answer, That all Warrs are either Offensive or Defensive. If it be Offensive, it cannot be suddain, for it is the King's own Act, and the result of mature deliberation; and so their may be time enough to call a Parliament, if it stand with his Sacred Majestie's good will and pleasure. If it be a Defensive War by Forreign invasion, which I shall (to avoid Cavil) agree may be suddain (though a great Statesman tells us, that these Clouds are commonly visible afar off before the Tempest fall) I say if I Forreign Invasion, then first the impulse of self-preservation (an indelible Character wrote on every man's mind by the very hand of Nature) will dispose all Mankind to expose their Lives and Estates, which otherwise they must inevitably lose. And this seems to be the case of this Kingdome in the Year 88. for there was then no Parliament sitting, but many of the Worthies of that time, (some of whose names are transmitted to Posterity) at their own private charges, brought in men and Ships to the Common Defence.

Comines fol.
179.

Camden vi-
ta Eliza.

But Secondly, if we are to suppose that men must be drag'd and haled to their own preservation; I say then the Law hath provided, that in case
of

of Forreign invasion, every Subject within the Land, high or low, whether he hold of the King or not, may be compel'd at his own charge, to serve the King in person. To prove this I can vouch Authorities from Common Law, Statutes and Records which for brevity I will not quote at large, but (least any man should doubt hereof) will only point where they may be found.

Common Law, see 7. H. 4. *Brook Tenures* 44. & 73. *Fitch. Protection* 100. *Coke* 7. *Re.* 7. b. *Calvins case.* 2 *Rolls Title Imposition* 165. & c. 1 *Inst.* 69. b. in fine.

For Statute Laws see (among many others) 1. *Ed.* 3. cap. 5. 11. *H.* 7. cap. 1. 11. *H.* 7. cap. 18. & c.

For Records (among many others that I have seen) I will crave leave to vouch two.

The First is 14. *Johannis Regis*, where upon an imminent French invasion, King John issues out Writts, in which he summons all his Subjects, high and low to repair forthwith to Dover. *Ad defendendum caput nostrum* (saith the Record) & *capita sua*, & *quod nullus remaneat qui Ar-* *Math. Paris*
223. *Matth.*
Westm. 91.

*ma portare possit sub nomine * Calvertagij, & perpetua servitutis &c.* The other is upon a French invasion too, design'd against this King-dome in 26. *Ed.* 3. the which being a Record so appolite to my purpose I shall recite somewhat more at large. *B. & C. Cowardise*
or *Turnail* so
the glossaries
Rot. Francie
Anno 26. *Ed.*
3. *Membr.* 9.

Rex dilecto consanguineo & fideli suo Henrico Duci Lancastria salutem. Quia Adversarij nostri Francia nos & Regnum nostrum Anglie invadere machinantes, ad nos & Dominium nostrum, & totam nationem Anglicanam pro viribus destruend. Nos considerantes omnes Incolas dicti Regni cujuscunque conditionis extiterint, cum versetur commune periculum teneri de jure pro patria pugnare, & eam contra hostiles aggressus defendere. --- vobis mandamus quod omnes homines defensabiles tam milites & Armigeros quam alios quoscunque de dicto ducatu cujuscunque status seu conditionis fuerint arraiari, & quemlibet eorum iuxta statum & facultates suas, Equitaturis & Armis competentibus muniri &c.

I shall conclude this Section with a case of very recent Memory, and of singular Notoriety throughout the whole Kingdome, I mean that of the Conflagration of our Ships by the Dutch not many years past in the River of Chatham. There prevail'd at that time an universal jealousy among the people that upon this occasion some suddain stop might be put upon the Exchequer, and thereupon the Bankers were exercised with restless solicitations for the speedy payment of their Debts. The King for the sedation of these Fears and apprehensions, is advis'd (and not without infinite prudence) to issue forthwith his Declaration to preserve inviolable the course of payments in the Exchequer, which was accordingly done. Now let's see what were the grounds of this Declaration. Why truly they are prest there to be. First, *Least the Credit of the Bankers (who had been useful to the King) might be weakened.* Secondly, *Least the King's securities might be undervalued.* Lastly, *Least in consequence the public*

See the Declaration at the end of this Treatise.

Safety might be endangered. Now all that I shall say is this: That (of what valew in reason of State it may be, I know not, but) to men of vulgar Negotia ion it seems a Riddle and matter inextricable, that these considerations which at that time appear'd to have been of so politrique and valuable Regard, within the space of two or three years, upon a like occasion, should be thought by this Advisor clearly Obsolete, and altogether void of Prudence; And the Credits of the Exchequer, Royal securities, and the publique safety so little by him consulted. *Idem manens idem, semper facit idem.*

I have at length discharg'd my self of this grand and Colossus Objection, in how tolerable measure I must leave to the Candor of my intelligent Reader; But if it happen that I have herein given a substantial and effective answer thereunto, I dare say this pernicious Council hath then no farther support, but must of necessity fall to the ground.

However I am to enter my Protestation, that I would gladly have declin'd so sublime and important an Argument, if the nature of this discourse had not (much against my own inclination) compeld me to the contrary.

SECT. 6.

That this Council is contrary to the Policies that have been practised heretofore by the wisest Forreign States of the World, in far greater Exigencies then ours. The Objection (of Princes not repaying money lent them by their Subjects to keep them in better Obedience) Answered. The inconvenience that hapned at Rome upon an Impeachment of the Bankers and Usurers. That persons concerned here in the Stop of the Exchequer, will be losers by loss of opportunities for bargains, &c. in this interval.

*In proemio
ad Histori-
am.*

ALL men agree that Rome (whether Monarchical or Republique) was a State founded upon the choicest Polities that ever were practised in the world. And (as *Florus* saith) he that reads their Atcheivements contemplates not the Gests and Actions of one single people, but even of all mankind. Let us then consider, what expedients this so prudent a Nation exercised in cases of like nature.

It is plain this State was never under a freighter dures or pinch then after their disinal defeat at the Battail of *Canna*, for then had *Hanibal* brok

broke into Italy like a Deluge of the Sea, bearing down all before him, and at length this Tempest of War had begirt the very walls even of Rome, with his triumphant Army, and which was yet worse, the Roman Treasury was totally exhaust.

In this Extremity *Levinus* and *Marcellus* the Consuls declare forthwith by Edict, That each private person of such an Estate (and so others proportionably) should furnish out a Souldier at their own charge for thirty dayes. *Ad id editum* (saith *Livy*) *tantum fremitus hominum, tantaq; indignatio fuit, ut magis Dux quam materia seditionis, deesset.* *Livii. Lib. 26.* Upon this Edict so hot was the rage and petulancy of the people, that there wanted nothing but a Leader, to have put all into a combustion: The Commonalty crying out that they had now for many years been loaded with Tributes that their Lands lay fresh and devastated, and that they could not by any force be compell'd to give that, which they had not to give: And this and much more they spake, not in corners, but even in the Market-place, and in the hearing of the very Consuls themselves. In so great an Agony of the Body Politique, the Lords of the Senate Assembled, to consult how they might with more security Levy Money, and string themselves a fresh with new Sinews of War; after many temerarious courses proposed and rejected, they thus reasoned (as *Livy* and *Florus* relate) *Livii lib. 26.* amongst themselves. *Omne aurum* (say they) *Argentum As signatum ad Flori lib. 2.* *Triumviros Mensarios deferamus, nullo ante senatus consulto facto, ut voluntaria oblatio, &c.* Let us our selves that be Senators first bring into the publique Treasury all our Gold Silver and Money, and this too without any formal Decree, that so this voluntary Oblation of ours may excite an emulation of supplying the Common-wealth, first in those of the *Equestrian* Order, and then of the Commonalty; In pursuance of this proposal, the Lords of the Senate brought in all their Treasure accordingly: Now see what the consequence hereof was. Hereupon (say the same *Livii lib. 26.* *Flori. Lib. 2.* Historians) the Knights and Gentlemen followed the example of the Senators, and the Commoners that of the Knights and Gentlemen; And the Contributions were so large, and the Coarctations so sharpe for priority of registering names, that the Exchequer had hardly Books and Clarkes enough to enter the particulars. *Bodine* commenting upon this prosperous Bodin de Re-Council, hath these very words. *Cum Annibal Italiam quateret; ur-pub. lib. 6. ca. 1.* *benigne ipsam obsideret, Senatus diruto arario nova tributa subditis aut ad A-ario. sociis imperari noluit. Nihil enim prementibus hostibus tam periculosum.* When *Hannibal* had made Italy to tremble, and had besieged Rome it self, the Senate, though the publique Treasure were spent, would not impose new Tributes upon their Subjects and Colleagues; For nothing (saith he) can be more hazardous upon an instant impression of an Enemy. Neither is it to be forgotten, that the same Historians add, *that pars victo ii &c.*

That

*Liuij Lib. 26.
& Lib. 31.
Bodin Lib. 6.
cap. 2.*

That after Victory obtain'd, and the *Carthaginians* discomfited, the Senate had decreed the Repayment of every Lenders Money justly and honourably, which was Executed accordingly.

The Learned *Boterus* Relates a Story very apposite to this purpose. *La- dissans Dux* Neopolitanus victus (saith he) *fugatusq; ab hoste, &c. La- dissans Duke of Naples* being vanquish't of the Enemy, flies to *Naples*, and there consults about raising Money for the reinforcing of his Army, and had resolv'd (by the Advice of persons more factious then wise, saith that Author) to effect this by imposition of new and ununsall Taxes, this being intimated to one *Gorellus* (a person of singular Prudence and Gravity) he forthwith repaires to the Duke, and bespeaks him after this manner, *I am afraid (GREAT SIR) that whilst you are solicitous of re- pelling the Enemy, you take no care of falling into the harred and Malevo- lence of your own Subjects, by this imposition of a new Tribute: I beseech you Sir, what can your greatest Enemies breath after with a warmer zeal then that you should follow a Council, that will assuredly dispoile you of the Love and fidelity of your people. Banish then GREAT SIR, out of your Royal Breast so pernicious a determination; for that money which you want, my self with some other of your servants (who are to run the same Risques of Fortune with your Majesty) will presently supply you; And taking a Pen in his hand, he put down what each person (himself principally) was to pay, and the Money was in a moment brought in, Prudentissimum sane pro re & tempore, &c. saith Boterus. A most prudent Council for the matter and occlusion, given by Gorellus, and approved by the Duke, by which (saith he) the wiles of the Enemy were prevented, and the popular quiet and contentment consulted.*

Inuita An- tonii.

Now because contraries appear best by opposition, I will produce one instance a little diverse from this. *Augustus Caesar* had suddain news brought him of a vast Army in the raising by *Mark Antony* to encounter with him; The Prize to be fought for was no less then the Empire of the World. *Augustus* (being young, and instigated by evil Council) squeeses the people with Taxes towards the support of this War. The people hereupon began to Mutiny, insomuch that (as *Plutarch* Reports) the wisest men of that time took it for granted, that if *Antony* in this conjuncture had approacht nearer with his Army, the Romans would have assuredly revolted, and delivered up *Caesar* into the hands of his Enemy. But (as he saith) the imprudent delaies of *Antony* gave time to the people of concocting their discontents, and of the sedation of their Passions; neither is it to be neglected that this Illustrious person, after the defeat of *Antony*, and his own access to the Empire, took such warning by this hazzardous mistake, that ever after he abandoned all Councils of this Nature. And unto that degree that in the last twenty years of his Reign, he laid out up-

on the Publique Benefits and Emoluments of the Common-wealth (as *Senatus* writes) little less then *Quater decies Millies* * *sestertium*, That *Life of Angu-*
is, Eleven Millions, Eighty thousand five hundred thirty three pounds six *rus bound up*
shillings eight pence Sterling: Besides his two paternal patrimonies, and with *Plutarchs*
other his Inheritances. Others report, thirty five Millions of Gold, be- *Lives.*
sides the two aforesaid patrimonies.

Many other examples of like nature I could produce out of History and Obj.
 Policy, which yet (for brevity sake) I forbear to do, and hasten to an- **See for this*
 swer an objection, viz. That (as certain Authors affirm) some Princes have *valuation Bu-*
 by great *Usuries* Decoyed vast summes of their Subjects Moneys into the *dens de Assé.*
Exchequers, and forborn afterwards to repay them, on purpose to oblige *Hackwei's A-*
 their people to a stricter Obedience and fidelity to the Crown, And this *polology and*
Artifice (as *Bodine* Reports) was recommended as a subtile project to the *Savil's notes on*
French Kings, and accordingly practised by them. *Tacitus Hist-*
ry, Lib. 1. c. 6.

I shall answer this Objection in the very words of the same *Bodine*, in Sol.
 an other place. *Hec quidem tolerabilia viderentur* (saith he) *Si quod De republ. lib*
Regibus nostris persuasum erat, Civitates, obsequio & fide majore, accep- *6. cap. 2.*
tis munio pecuniis, devincire potuissent, sed nullis temporibus graves in
Gallia tumultus, aut plures Civitatum defectiones, extiterunt. These
 Councils had been tollerable (saith he) if as these State-Mountebanks
 would perswade our Kings, the people by this detainer of their Money
 would have been conteind in better Obedience, but alas, there were never
 more dangerous Tumults in France, or more frequent Revolts of Cities
 known, then in those very times.

All States have tolerated *Usuries* in one Kind or Rate or other, And it is *Essays.*
 impossible (saith the Lord Bacon) to conceive the inconveniencies that will
 ensue not only to Merchants but all other persons if the borrowing of Mo-
 neys should be cramp'd and discouraged: Therefore consideration for Mo-
 neys lent hath been entertaind (as the Scripture saith) of the Judaical
 Divorces) for the Hardness of mens hearts. And the Endeavours of a-
 bolishing thereof have proved sometimes inconvenient and dangerous to the
 States where it hath been attempted; To prove which I shall produce but *Annalium. l.*
 one Example reported by *Cornelius Tacitus*, who tells us, that in the Reign
 of *Tiberius Caesar*. *Magna vis accusatorum in eos irrupit qui pecunias*
senore auctitabant, &c. That a great Rabble of Informers rose up against
 those persons which took excessive *Usury*, and thereupon every man cal-
 ling in his Debrs, on a suddain ensued a great want and scarcity of money
 and an universal discontent, and the aspect of affairs seem'd not very pro-
 pitious, which being perceived by that prudent Emperour, he forthwith
 caus'd an hundred Million of * *Sesterties* of his own to be put in o the Bank **l. s. d.*
sterling. *751.466. 13.4.*
 to be lent to all men that had occasion for three years without interest, and
 thereupon all things became calm and sedate again.

Lastly, though the *Exchequer* here be again opened (as in good time I hope it will) yet the persons therein concern'd will notwithstanding sustain infinite damage, in point of irreparable loss of those opportunityes of advantageous Bargains, Marriages, and sundry other particulars, which in this interval have been offered unto them.

SECT. 7.

That this Council is contrary to the Common Reason of Mankind, and in some respects against the Rules of humanity. That it is pernicious to the credit of his Majesties Exchequer. The case between Phillip the Second of Spain, and the Bankers of Genoa, truly stated, and demonstrated to be essentially different from our case. Campanella's Advice to King Phillip to make speedy payment of that Debt.

IT is a Rule that hath prevail'd among all Nations (as well Barbarous as Civil) That *Quod Omnes tangit ab omnibus debet supportari*. And again. *Qui sentit commodum, sentire debet & onus*. Where the utility and peril is common, there the charge and contribution ought to be common also. But I doubt if this Council happen to be weighed in this Balance it will prove light, for as it is plain that the Defence of the Kingdome was an utility to the whole, so it is as evident that the charge thereof was fastened upon a Part. What is this but as if the States of Holland should impose the expense of defending their Countrey from the Sea, upon a parcel of their people? Or (if we may compare great things with small) as if the Banks and Walls of the great Level of the Fenns, should be maintained by a small number of the Proprietors? And yet this seems to be the present case, and how far this proceeding is contrary to the common Reason of Mankind, I leave to the world to judge.

But this is not all neither, For this charge is not laid only upon a Part, but in great measure upon the most impotent and necessitous part of the Kingdome, and upon many of those glorious Worthies which maugre all the Temptations and menaces of wicked men preserved their Virgin Loyalty chaste and undissolved.

I have observed that some persons in Parliaments have used it as a motive to supply our Kings with Money, because say they, that which you give,

is

is but like a vapour exhaled by the Sun, which gathereth into a cloud, and in short time diffils again upon the Earth in gentle dews, and fructifying showres. But this Advice, what was it but to draw up the Tears of Orphans and Widdowes, the milk of helpeless Babes, the sweat of the Labourers brow, and the heart blood of several poor Loyallists, (among others) to fertilitate the Lands of many persons which (not to say worse) wallow in all Affluence and Riches? Or (if I may use a Scripture Metaphor) to take two Leggs, or a piece of an Ear of a Lambe, which we had rescued out of the Jaws of the* Lyon, and give it to the Rich men that have many Flocks & Herds. For nothing is more evident, then that many of those wretched persons that had but one hundred pound in all the world, had that All taken from them towards the Defence of the Kingdome, when many others that were worth hundred thousands, expended not a farthing at that time. And now what I shall say more—*Pudet hac opprobria nobis Et dici potuisse & non potuisse refelli.*

Now for the Influences this Councel may have upon his Majesties Exchequer, in all likelyhood they cannot prove very propitious and benigne. Few things have been more dear to Princes then the Reputation and Glory of their Exchequers, And Queen Elizabeth wars so punctual in this particular, that in her time (they say) it went for a Proverb. *As sure as Checks.* For (as a great Authour Writes) Outward esteem and Reputation is the same to great persons and Things, which the Skin is to the Fruit, which though it is but a slight and delicate cover, yet without it the Fruit will be subject to discolour and Rot. He that hath a mind to contemplate the Consequences of a discredited Treasury let him but consider the Cases of Henry the second of France, Reported by Bodine, and of our King Henry the 8th, by the Lord Herbert (for I would rather they should declare them then I) And I am afraid that when men shall be importuned to lend money upon any future Occasion, they will be apt enough to discourse within themselves, That that which hath been done may be done again, and that the Moneys of other men were secured unto them by Declarations and Acts of Parliaments, and that they cannot expect higher securities then these, &c. It is true indeed when the Exchequer is again opened, this Objection will be in good measure answered, but till that time I fear it will remain not inconsiderable.

I shall no farther pursue the Pestilence of this Councel in this particular (it being so obvious to the meanest understanding) but shall now state the Case between Phillip the Second of Spain, and the Bankers of Cenoa, as have extracted it out of the best Authors I could find, which treat upon that Subject.

Charles the Fifth Emperour of Germany, had for a long season revel-

Tbuan Hist lib
61. anno Dom.
1575.
Metavani Hist.
Belgica Lib. 5.
Bodine de repu.
L'b. 6. Campa-
nella Spanish
Monarchy c. 21.
Helyns Col-
mograpy in
Genoa. Lassels.
Voyage into I.
taly, 1 part. pa.
93. cum multis
aliis.

ved in his mind how he might render the *State of Genoa* obsequious and dependant upon himself, and this he did (among other reasons) that he might as occasion served with the greater facility Transport his Armies out of *Spain* thorough this Territory into *Italy*. In order to this, sundry Experiments had he made, which yet by the Jealousies of that people were always rendred *improsperous*. Charles (being as he was a Prince of prodigious Subtily) falls upon new Councils, he considered he had to do with a people that dealt much in *Money*, and were generally great Bankers, and Merchants, and therefore concluded that if by extraordinary Usuries he could allure their Money into his Exchequer, he should then be in possession of the best Hostages they could give him for their Fidelity and Observance. This Emperour dying, Phillip his Son, after his Fathers Example (to make these birds more confident, and less jealous of the Snare) proceeds for some time to feed these unhappy money-changers with excessive Usury, till by this fine Dexterity he had conveyed into his hands no less then 420. Dutch Tun of Gold, some say eleven, others eighteen millions of Gold, and then secures this Debt to them very fairly upon the Tributes of Spain and the Indies. The silly Birds were now very secure, and Sate fair, and there wanted nothing but the drawing the Net. Thereupon King Phillip (being exhausted with his Low-Country Wars and with all) sensible of the weight of so ponderous a Debt, takes occasion at first to cavil at some little misreckonings in the Accounts, and a while after insisted that he had heretofore paid them more Interest money then they ought to have received, and therefore (quoth he) that overplus ought in all reason to be deducted out of the Principal, and thereupon by publique Edict (taking the Opportunity likewise of some Civil discords, which at that time raged among them) forthwith stops their Pensions issuable out of the said Tributes. And then to fortify this Act, by secret Combination with the Pope (to render the Action more specious) procures a Bull from his Holiness to confirm all that he had done, however for so much Principal Money as was afterward agreed to be due (which in the year 1600. I find was One Million and half of Gold) the Crown of Spain hath ever since to this day justly and Honourably satisfied the Interest.

This is the true state of this Case (according to my discovery thereof). Now it will be evident to any person that shall compare these two cases together, that they differ each from other in sundry essential circumstances.

For,

First, this Severity of King Phillip was not exerted upon Children and Subjects, but upon a Foreign State, of which Spain had then just causes of Apprehension and Jealousy, and so the Action well enough consistent with the Rules of Policy.

Secondly

Secondly the Envy and Enormity of this Feste, was by a curious Leger-
dmain juggled upon his Holiness, and King Phillip to all outward appea-
rance rendered innocent thereof: This Debt (saith Peter Heylin) was cut
off by the Pope's Authority, that so King Phillip might be obliged to that
See. Hoc debitum (saith Metaranns) per pontificis decretum propter in-
gentes usuras fuit diminutum, & moderatum. This Debt by the Pope's
Decree was moderated upon pretence of excessive Usury. And Bodine
Droling facetiously upon the proceeding, sed risa dignares est (saith he)
quod non modo Genuensibus verum etiam Philippo, &c. It was thought ve-
ry pleasant and ridicule that not only the Genoeses but Phillip also should
be interdicted, he, because he took money to Usury, they, because they
lent it. However they were both (this being done only by compact, and
to give the better grace to this neat Emuncture or wipe) in a little time ab-
solved again.

Helin's Co-
mograph.

Bodin, de Rep:
lib. 9. cap. 2

Matvini Hist:
Belg. Lib. 5.

Thirdly, in this case the Interest Money was and is punctually satisfied,
and I wish I could affirm as much in ours.

Fourthly, I do not find that this Debt of the Genoeses was secured unto
them by any Act of the Cortes or Parliament of Spain and so the Common
Faith of that Nation inviolate. But in our case, our Debt is secured to
the Bankers and their Assignees by National Obligation, As I have (I
think) above most evidently proved.

Lastly, Campanella the Jesuite a man of infinite subtilty, and one that
seems to be even anxious, and eaten up with zeal for the Grandeur and
prosperity of Spain, the which he cultivates with a singular diligence in his
Discourse of that Monarchy. This very man, I say, doth with all his vigor,
not only advise, but importune King Phillip with all speed to pay this Debt
to the Genoeses. Least saith he (among other reasons there given) if there
should happen any Rising in Italy to the prejudice of that King the Genoan
Banners might march also along with them for company.

Campanella
Span. Mon.
chap. 21.

The Conclusion.

I shall (I hope) auspiciously take the rise of my Conclusion from two me-
morable Records. The one relating to Widows and Orphans, the other
to those Worthies who with their Lives and Fortunes had many years agoe
propugn'd the Rights of the English Crown.

That which concerns the former I shall for the excellency thereof (so far
as it concerns my purpose) transcribe verbatim.

Die veneris proximo ante Festum beati Edwardi, Anno Regni Regis

Inter Commu- Henrici tertii 34. venit Dominus Rex cum suo Concilio ad Scaccarium &
 nia termine ibidem proprio ore praecepit omnibus vicecomitibus Angliæ, tunc ibidem
 Mich. 35. Hen. existantibus. Imprimis quod modis omnibus observarent & manutenerent li-
 3. in Officio bertates sanctæ Ecclesiæ, & similiter manutenerent Pupillos Orphanos,
 Remen. Thef. in & viduas & celerem eis justiciam exhiberent, &c. Here we have,
 Scac. Rot. 2. In- it Registred in the Records of Fame, that the glorious King Henry
 tus. praeceptum the Third, came in his own person into his Court of Exchequer, environ'd
 Domi. Regis with his illustrious Cancellors, and there with his own mouth gave it in
 charge to all the Sheriffs of England. That in the first place (next after
 holy Church) they should Defend the Orphans and Widdows, and do unto
 them speedy Justice.

Prov. 29. 14.

Rot. Parl. 11.
 Hen. 6. Memb
 6. Col. 5. 4th.
 Inst. 6. Rot.
 Parl. 8. Hen. 6.
 Memb. 11.

*Reward.

vita Octavii
 Augusti,
 bound up in
 Plutarch's
 Lives.

The other Record is that of 11. Hen. 6. where that Renowned King
 gives expresse Order that a Roll should be forthwith made of such persons
 which had spent their Youths and Estates in the service of his Royal Fortunes
 father, Father and Himself, to the intent that such of them (I shall give
 you the very words of the Record) which are without any Livelyhood, or
 *Guerdon, and so in great mischief and necessity, and some but easily Guer-
 doned, and nought like to their Desert and Service, may, when Offices and
 Benefices fall, have them confer'd upon them, &c. I hope no body will
 think me so presumptuous or vain, as to prescribe this for an Example; I
 know when we have served God and the King with our Lives and Fortunes,
 we are notwithstanding unprofitable Servants, and have still done but our
 indispensable duties, only this I shall say (and I speak it with an humble
 modesty) That I hope we that were Sufferers for our Loyalty, shall be
 thought now, as worthy of enjoying those poor Remnants and Scraps of
 our Fortunes, as these persons before us were of receiving their Guerders
 and Rewards. I do never without a secret exultation of Mind consider
 this following Memoire that I find of Augustus Caesar: upon the Defeat
 (saith my Author) of Mark Antony at the famous Battail of Actium, Au-
 gustus commenc'd Emperour of the World; sometew yeaas after, a certain
 old Souldier (that in this Battail had done Caesar good service) hapned to
 be impleaded for his Life before his Imperial Majesty, and the Senate;
 The Soldier implores Caesar (then present) to help him in this Distress;
 Caesar recommended him to an able Advocate, the rough Soldier not
 contented with this, forthwith rips open his bosome, and exposing to the
 view of the whole Court the marks of the Wounds which he had received at
 the said Battaille of Actium; These wounds (quoth he) O Caesar have I
 received on my mangled body in thy defence, and substituted no Deputy in
 my place! Augustus hereupon (overwhelm'd with the Passionateness of
 this Action) presently stood up, and pleaded the Soldiers Cause himself,
 and carried it. An Action certainly well bebecoming an Emperour of the
 World! And are there not many miserable persons concern'd now with
 with

the Bankers, whose Fathers, Husbands, Children, and other Relations have asserted the Crown of England with their dearest Lives and Fortunes? nay, are not several of that kind yet surviving, which do yet bear in their miserable bodies the Scars and glorious Remarks of their Loyalty, received in the Battails of Edge-hil, Newberry, Nasby, Worcester, and indeed where not? And shall we imagine that our Caesar (a Prince of such eminent Clemency and Justice) will suffer these persons and their Families to starve for want of that which is their own? And that he will not proceed (as he hath begun) to be an Advocate and Intercessor for them in so just a Cause.

I dare be confident his Majesty is inexpressibly sensible of this Calamity, which is fallen upon us, and his Royal Bowels yerne with Compassion towards us. Neither is the Delay of Payment hitherto any Defect in His Majesty's innate Justice, but an Excessance and unhappy superferation of the first pernicious Council of Shutting the Exchequer; to think otherwise were to blaspheme the greatest sweetness of Nature in the world, And to prophane that illustrious Prince, of whom no man ever yet form'd a thought, but his mind was presently filld with the Idea of all that is Great, and Just.

For my part I am no Projector, and I have alwayes in my own Nature abominated all Vermin of that kinde; But yet me thinks it is not impossible to deligae a Course how to pay off this Debt of the Bankers, and that by waies not only practicable and Legal, but Grateful also to the Kingdome.

I am not ignorant that I have here all along in this Discourse dealt in an Argument of sublimity and importance, of which a man can hardly write perhaps without being in some measure Sacrilegious, But yet we find that Matth. 12. our Saviour Christ excused the servants of King David, when they were 3 and 4. ready to perish for want of food, though they broke into the House of God, and made bold with the holy Bread. And the Law of this Land acquits the person that steals viands to pacify the present Languishments of nature. Where the perturbations of the Judgement and Reason are so great, as in presumption of Law, man's Nature cannot overcome, such necessity carryeth a Priviledge in it self; (saith no mean Author) And I hope that Ld. Bacon's man shall not be thought pragmatical or busy that deals in a matter in which the Fates of his Ruine or Happiness are imbarckt. *Maxims of Law, p. 29.*

There be many things which possibly I have forgot, and some things which I have perhaps industriously omitted. If any matter have fallen from me inconsiderately, (as in so long a Discourse may easily happen) I do with unspeakable humility and Prostration beg Pardon, requesting this one Favour, that no persons would censure me, or those worthy persons in my condition, until they have first represented our Cases to them selves, as their own.

Pro-

Protesting in the last place that I have written nothing but with a mind
at all times ready to sacrifice the Body it dwells in to the Honour and Safety
of my Gracious Sovereign and his Kingdomes, And upon that glorious
account, prepared alwayes to suffer more, then He or They deserve; that
advised His Majesty to the stopping the Exchequer.

*Illud omnium maximè tenendum erit a Principe, ut fortunæ alienæ tem-
peratum fuisse cognoscatur: Nam citius parentum cadem oblivionem
dant Homines; quam Fortunarum suarum direptionem.*

Nic. Machiavelli princeps, Cap. 17.

*His Majesties Declaration To all His Loving
Subjects, to preserve Inviolable the Securities
by Him given for Moneys, and the due Course
of Payments thereupon in the Receipt of the
EXCHEQUER.*

WHereas *We* are given to understand, That divers of Our good and *Loyal Subjects*, *Goldsmiths* and others, who have advanced to Us great Sums of Money for the Publick Service, which are sufficiently secured unto them upon several Branches of Our Revenue, and other moneys arising by several late Acts of Parliament, have upon occasion taken from the late Attempt of the *Dutch Fleet*, and the false Reports spread thereof, been prest in an unusual manner, with many sudden Demands by their Creditors, for present Payment, through Fears and Apprehensions; which may weaken the Credit of Our said Subjects, who have been so useful to Us bring an undervalue on Our said Securities, and in consequence endanger the Publick Safety in this present Conjunction: We have therefore thought fit (as well for satisfying the minds of our good Subjects, whose fears so transported them to call for their moneys in such a manner; as for the allaying such Jealousies and misapprehensions as may be taken up by those concerned in the said Securities) to Declare, as we do hereby declare, that as the Course of Payments in our Exchequer hath hitherto been punctual, and according to the due Order, even in this time of disturbance and interruption of Payments amongst our Subjects; so Our stedfast resolution for preserving inviolable

to all such Our good Subjects, who have Lent or *Advanc*
ced any moneys for Our service as aforesaid, All and
very the *Securities* and *Assignments* any wayes made by
for and towards the *Repayment* and *Satisfaction* of the said
several summs of money: And that We will not upon a
ny occasion whatsoever permit or suffer any *Alteration*, *An*
ticipation, or *Interruption* to be made of our said Subjects *Se*
curities; but that they shall from time to time receive th
Moneys so secured unto them, in the same *Course* and *Me*
thod, as they were charged, and ought to be satisfied. Which
resolution we shall likewise hold firm and sacred, in all *Fi*
ture *Assignments* and *Securities* to be by Us Granted up
on any other *Advance* of Money by any of our Subject
upon any *Future Occasion* for Our Service. And we can
not doubt upon the publishing this our *Royal Word* and
Declaration of our sincere *Intention*, but that all reasonable
persons will re't satisfied that their fears were causeless, &
their respective *Interests* in no danger at all, and that n
evil can happen to them on this *Occasion*; since the *Se*
curities by Us to them given being inviolable, we doubt not
but that our said Subjects will satisfie every person both
their *Principal* and *Interest*, as they have formerly done with
untainted *Reputation*. And of this our *Declaration* we strait
ly charge and Command our High Chancellor of England
the Lords Commissioners of our Treasury, the Chancell
lor and Under-Treasurer of our *Exchequer*, and all other
our Officers and Ministers whatsoever whom it doth
may concern, to take notice and duly to observe the same
as they will be answerable to Us at their utmost peril.

Given at Our Court at whitehall, this 18th. day of June 1667. An
in the Nineteenth year of Our Reign.

THE Postscript TO THE Letter.

THUS (Sir) I have as you see according to the *Model* of my weak *Talent* discovered the *Enormity* and pernicious *Influences* of this *Advice*, I take God to witness I have done this, without the least *Malice* or *Design* against any man's person, of what *Degree* or *Quality* soever; Indeed if any man shall come from behind the *Curtain* & with a bare & open face shall say *I am the Man that gave this Advice*. That person I must confess (and only that person) hath not escaped my *Animadversions*, and from him only, and nobody else I hope I can with *Reason*, expect *Reproof*. And thou let all *Mankind* judge, whether of the two is more to be blamed, he that hath lead his *Prince* out of the old *via Regia* or King's high way, into by and *untrodden Paths*, unknown to the *Law*, and to walk upon *Precipices*, or he that hath given an honest *Alarm* or *Outcry* of this evil *Dealing*.

The Lord Treasurer *Burleigh* (under whose old *English Councils* this *Kingdome* flourish'd, and became *formidable* to all the world, and one perhaps that better understood the *Genius* and *temper* of this *Nation* than this *Advisor*) was us'd to tell his *Queen*. *Madam* (sayes he) *Win Hearts* and you'll be sure of *Hands* and *Purses*. And *Dion* (in *Plutarch*) doth admonish the Son of King *Dionysius*. *That the Love of the subject* (obtain'd by *virtue* and *Justice*) is the strongest guard and security of a *Prince*.

The great God of *Heaven* and *Earth* and my own *Conscience* will be my *Compurgators* and *Witnesses*, that whatever I have said in this *Discourse*, I have done it with a most ardent and passionate *Desire* of the *Prosperity* of my dread *Sovereign*, and an unfeigned *Love* to my dear *Countreymen*, and to raise and enkindle (as well as I could) an universal *Disposition* in this *Kingdome* towards the *Payment* of this *Debt*; That thereupon so considerable

Cottoni post-
humus p. 313.
vita Dionisii

table a part of the English Nation (as are concern'd with the Bankers) may not be overwhelm'd with an inevitable Ruine, and that so great a Member thereof may not be raviht and torn limbeal from the Body of th's Common-wealth.

I shall probably be thought by some persons to have prosecuted this Argument with a warmer Zeal then became mee, and to have sallied out sometimes perhaps into Extravagancies and Inconsideration: I can only Reply, that the Authors and Testimonies by me vouch'd, are Authentique, and of approved Credit, and by me truly and carefully quoted, That alter I have sacrificed my Person and Fortunes to mine Allegiance in the Late Rebellion; no man I hope will suppose that I should now become Apostate or Renegado to so glorious a Cause, That Necessity, and the want of a mans own, are spurs sharp and invincible; And Lastly that I have been actuated all along in this Discourse with no other Impulse of mind, then those which loosn'd the Tongue of the Dumb Son of King Cressus, when he saw a Soldier ready to offer violence to his Father crying out, It is the King! At whose Royal Feet I am alwayes ready upon Occasion to lay down my Life, together with that poor Mite or Fragment of Estate, which the Rebels and this Adviser have left me: Praying (in the Scripture Language) That God would strike through the Loins of all them that hate His Majesty, but that upon his own Head his Crown may for ever flourish.

I am

Sir your most Affectionate

Servant, S. R.

Errata.

Reader,

Some faults thou art desired to amend, which by reason of the absence of the Author, and haste, have escaped the Press. As in the third page of the Letter in the first sheet, Line 18, for irradiated read irradiated, &c. The Poynings also in many places are to be amended.

F I N I S.

